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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/943,910 | 08/31/2001 | J. Stuart Cumming | HO-P02089US1 | 2364 |

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EXAMINER

GILPIN, CRYSTAL M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3738

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,910

Applicant(s)

CUMMING, J. STUART

Examiner

Crystal M Gilpin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Examiner Notes:

1. Page 2, paragraph 2: Misspelling of the word "to" in "Improved
accommodating intraocular lenses according t the
invention include..."
2. Claims originally numbered as 48-55 were renumbered as 1-8 (Page 11-12)
respectively. Claims originally numbered as 55-60 in the amendment filed on
August 31, 2001 (received by the office on October 26, 2001) were
renumbered as 9-14 (Page 5-6 of amendment) respectively. Renumbering of
the claims by the applicant is required.
3. U.S. Patents were considered although no copies were included, however a
copy of the non-patent literature document must be provided for
consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public
use or on sale in this country, more than one year prior to the date of application for patent in the United
States.

1. Claims 1, 2 and 3-8 are rejected under 35 U.S.C. 102(b) as being
anticipated by Choyce (USPN 4,277,851).

Regarding claim 1, Choyce teaches of an intraocular implant that with two plate

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haptics extending from the optic (Figure 3,) the space between the protuberances (Figure 3, reference numbers 2 and 3) constituting a notch on the haptic.

Regarding claim 2, Choyce teaches that the concavities, or notches, of the end-edges reduce the size and weight of the implant (Column 2, Lines 40-42), thus rendering the implant less likely to move within the eye (Column 3, Lines 36-39).

Regarding claims 3 and 4, Choyce teaches of notches with edges that are positioned at an angle from the axis and edges of the haptics (Figure 3).

Regarding claims 5 and 6, Choyce teaches of notches with edges that are disposed at an angle which crosses, or is transverse to, the axis and edges of the haptic (Figure 3).

Regarding claim 7, Choyce teaches of feet or protuberances extending from the haptics, which serve as support, or fixation, members.

Regarding claim 8, Choyce teaches of an aperture that serves as an opening permitting fluid flow, reduces the weight of the implant and aids in positioning the implant.

2. Claims 9-14 are rejected under 35 USC 102(b) as being anticipated by Richards et al. (US 4,994,082).

Regarding claims 9-14, Richards discloses in the embodiment of Figures 3 and 4, that the haptics are designed to move the lenses either anteriorly or posteriorly when compressed by a ciliary muscle contraction; see Figures 3 and 4 as well as column 5, line 33 to column 7, line 17 and column 11, line 39 to column 12, line 56. The protuberances are met by curved sections (110, 112, 114), which extend posteriorly and anteriorly from the haptic arm pairs (104, 106, 108); see Figure 4. The curved sections extend laterally ^{in the} X or Y axis; see Figure 1 for the X and Y axis.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to vascular prosthetic devices in general:

Momose et al. (USPN 5,133,750)

Smith (USPN 4,872,876)

Tennant (USPN 4,254,509)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal M Gilpin whose telephone number is 703-305-8122. The examiner can normally be reached on M-F, 7:30-5:30 (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3905 for regular communications and 703-308-3905 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

cmg
October 1, 2002


Paul B. Probst
Primary Examiner